

Message Text

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FM AMEMBASSY MANILA

TO CSAF (JACI) WASHDC

SECSTATE WASHDC 5278

INFO DOD (GENERAL COUNSEL)

HQ TAC LANGLEY AFB (SJA)

CINCPAC

CINCPACAF

CINCPACREPPHIL

13 AF CLARK AB

3 CSG CLARK AB

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E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT: MRS. JEAN WALDEN

REF: CSAF JA MSG 071851Z JUL 75

1. SUMMARY: EMB AFTER REVIEWING REFTTEL DEEMS IT NECESSARY TO COMMENT UPON THE WALDEN SITUATION AND TO STRESS BASIC FACT THAT IF MRS. WALDEN FAILS TO RETURN TO PHILIPPINES, AS SHE HAD PREVIOUSLY PROMISED, IT WILL JEOPARDIZE EMERGENCY LEAVE PRODEDURES FOR ALL SERVICEMEN ON INTERNATIONAL HOLD IN THE PHILIPPINES AND IT ALSO MAY HAVE SERIOUS RAMIFICATIONS IN WORKING RELATIONSHIP WITH DEPT OF JUSTICE AND WOULD RESULT IN DIRECT VIOLATION OF USG OBLIGATION UNDER CUSTODY RECEIPT PROVISION OF

MBA, AS AMENDED. END SUMMARY

2. UPON ASSURANCES BY CLARK AIR BASE THAT MRS. WALDEN
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HAD BEEN FULLY COUNSELED BY THEM AND THAT SHE HAD

SPECIFICALLY GIVEN ASSURANCES SHE WOULD RETURN TO THE PHILIPPINES TO COMPLETE JUDICIAL PROCESS, EMB CONTACTED DEPT OF JUSTICE AND RELAYED ASSURANCES AND REITERATED USG REPEAT USG RESPONSIBILITY TO ENSURE HER PRESENCE AT TRIAL. THIS WAS SUBSEQUENTLY CONFIRMED IN WRITING, AS IS NORMAL PRACTICE FOR EMERGENCY LEAVE REQUESTS.

3. THEREFORE, EMB IS AT COMPLETE LOSS TO APPRECIATE COMMENT IN PARA 3 REFTEL THAT HER RETURN TO PHILIPPINES IS BETWEEN HER AND COURT. CLARK AIR BASE AUTHORITIES HAVE ISSUED CUSTODY RECEIPT IN HER CASE, AND USG IS UNDER UNQUALIFIED OBLIGATION TO COURT TO HAVE HER AVAILABLE. IT WAS ONLY FOR HUMANITARIAN REASONS THAT DEPT OF JUSTICE, BASED UPON CLARK AIR BASE, EMB AND MRS. WALDEN'S ASSURANCES THAT SHE WOULD RETURN, AUTHORIZED HER TO LEAVE JURISDICTION OF PHILIPPINES.

4. ATTITUDE INDICATED IN REFTEL COMPLETELY FAILS TO RECOGNIZE THE POTENTIAL DIFFICULTIES THIS CASE MAY POSE IN US/RP RELATIONS AND LEGAL OBLIGATION CREATED BY THE ISSUANCE OF CUSTODY RECEIPT. NEITHER EMB NOR THE USAF IS IN POSITION TO SEEK ASSURANCES OF GOP THAT SHE WILL NOT BE ASKED TO REMAIN IN PHILIPPINES IF SHE RETURNS AS SUGGESTED IN PARA 3 REFTEL, WHEN FACT IS THAT USG IS VERGING ON A VIOLATION OF OUR OBLIGATIONS AND ASSURANCES. ONE USUALLY DOES NOT BARGAIN FROM SUCH A POSITION. ONCE WALDEN HAS RETURNED AND USG IS NO LONGER FACED WITH A VIOLATION OF OUR INTERNATIONAL OBLIGATION, EMB WILL BE IN POSITION AND WILL DO EVERYTHING POSSIBLE TO OBTAIN GOP COOPERATION BASED UPON HUMANITARIAN ASPECT OF CASE.

5. WHILE SOME MAY VIEW THE LIEPOLD/WALDEN CASE AS QUOTE ESSENTIALLY CIVIL, PERSONAL AND TRIVIAL UNQUOTE IT HAS NOT BEEN VIEWED IN THAT RESPECT BY DEPT OF JUSTICE. THEY HAVE REJECTED WAIVER REQUEST AND CONTINUING DIALOGUE WITH DEPT OF JUSTICE HAS NOT CHANGED THEIR POSITION. THEY HAVE EMPATHY BUT MAINTAIN POSITION LIMITED OFFICIAL USE

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THAT COURT IS APPROPRIATE PLACE TO HAVE MATTER RESOLVED; AND WITH PRIVATE PROSECUTOR AND CASE FILED IN COURT, THEY HAVE NO EFFECTIVE ALTERNATIVE WAY TO DISPOSE OF MATTER. ALSO, GOP LEGAL OFFICIALS UNDER IMPRESSION THAT THEIR COURTS ARE INDEPENDENT AND WILL EVEN CITE POSSIBILITY OF CONTEMPT PROCEEDINGS THAT COULD RESULT IN ATTEMPTING TO INTERFERE WITH COURT'S PREROGATIVES.

6. IN SUMMARY, BASIC FACT REMAINS THAT USAF HAS OUT-
STANDING CUSTODY RECEIPT ON WALDEN.
FAILURE TO HONOR CUSTODY RECEIPT AND EMERGENCY LEAVE
ASSURANCES IN WALDEN CASE WILL JEOPARDIZE, IF NOT DESTROY,
ARRANGEMENT WHEREBY IN LAST THREE YEARS DEPT OF JUSTICE
HAS INFORMALLY ALLOWED APPROXIMATELY 30 TO 40 MBA
PERSONNEL ON INTERNATIONAL HOLD TO DEPART PHILIPPINES FOR
EMERGENCY LEAVE. LIKELY RESULT WOULD BE TO MAKE IT
DIFFICULT, IF NOT IMPOSSIBLE, FOR OTHER INDIVIDUALS
SIMILARLY SITUATED TO DEPART PHILIPPINES TEMPORARILY.
IN ADDITION TO LEGAL OBLIGATION IMPOSED ON USG BY CUSTODY
RECEIPT THERE ARE PERSONAL ASSURANCES INVOLVED. IF
VIOLATED THEY COULD RESULT IN UNTOLD COMPLICATIONS IN
OUR DAY-TO-DAY WORKING RELATIONSHIPS WITH DEPT OF JUSTICE
OFFICIALS, BOTH AT LOCAL AND NATIONAL LEVELS. PAST
HISTORY OF CASE INDICATES WE CAN ALSO EXPECT MUCH
ADVERSE PUBLICITY.

7. ALSO, WALDEN ABSENCE, IF ALLOWED TO GO UNCORRECTED,
WOULD NOT BE HELPFUL IN LIGHT OF FORTHCOMING
MBA NEGOTIATIONS AND RECENT SPECIFIC COMMENTS BY
PRESIDENT MARCOS OVER QUOTE EXTRA-TERRITORIAL UNQUOTE
RIGHTS EXERCISED BY BASES. A NEW INCIDENT OF AN MBA
PERSONNEL ESCAPING GOP JURISDICTION WOULD ONLY RESURRECT
OLD PROBLEMS AND MISCONCEPTIONS AND IS CERTAINLY NOT
WHAT IS NEEDED IN CURRENT DELICATE ATMOSPHERE ON
EVE OF REOPENING OF NEGOTIATIONS.

8. ACTION REQUESTED: THAT ADDRESSEES TREAT THIS
MATTER AS BOTH SERIOUS AND IMPORTANT AND UTILIZE ALL
MORAL PERSUASION TO MAKE MRS. WALDEN RECOGNIZE HER
OBLIGATION AND HAVE HER RETURN TO PHILIPPINES PRIOR TO
THE NEXT COURT DATE OF 21 JULY 1975.
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